

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORTH WORTH DIVISION

ERIC JACKSON, *et. al.*,

Plaintiffs,

v.

ALEJANDRO N. MAYORKAS,
Secretary of Homeland Security, *et al.*,

Defendants.

Case No. 4:22-cv-0825-P

DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants respectfully provide notice of a recent decision in *Alvarado v. Austin*, No. 1:22-cv-876 (E.D. Va.) (attached as Exhibit 1), in which the U.S. District Court for the Eastern District of Virginia (i) denied the plaintiffs' motion to preliminarily enjoin the defendants¹ from enforcing the military's COVID-19 vaccination requirement or from taking any adverse action against the plaintiffs for refusing to become vaccinated against COVID-19, and (ii) dismissed the case *sua sponte* on justiciability grounds. *See id.* at 1, 19. The plaintiffs in *Alvarado* (like Plaintiffs here) sought injunctive relief from the military's vaccination requirement on behalf of themselves and a putative class, *see id.* at 2, 8, alleging that the requirement violates, *inter alia*, the Religious Freedom Restoration Act and the First Amendment's Free Exercise Clause, *see id.* at 5 & n.11. Applying principles of judicial deference to military decision-making regarding force readiness and operations, *see id.* at 8–10, the district court found that plaintiffs' claims were non-justiciable either (i) because they challenged "non-justiciable military judgments," *id.*, or (ii) because the plaintiffs had not exhausted all available administrative remedies, including completing separation

¹ The defendants in *Alvarado* were the Secretary of Defense, the Secretary of the Navy, the Secretary of the Army, the Secretary of the Department of Health and Human Services, the Commissioner of the Food and Drug Administration, and the Director of the Centers of Disease Control and Prevention.

proceedings, and even if they had, each of the four *Mindes* factors weighed against judicial intervention, *id.* at 10–16 (citing *Mindes v. Seaman*, 453 F.2d 197 (5th Cir. 1971)).

Dated: December 7, 2022

Respectfully submitted,

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